

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11924-RGS

IAN J. BROWN, JAMES
BROWN, and BARBARA
BROWN,
Plaintiffs,

v.

UNITED STATES OF
AMERICA, VERIZON NEW
ENGLAND, INC., and
BOSTON EDISON COMPANY
d/b/a NSTAR ELECTRIC,
Defendants.

**PLAINTIFFS' OPPOSITION TO DEFENDANT BOSTON
EDISON COMPANY d/b/a NSTAR ELECTRIC'S MOTION
FOR SUMMARY JUDGMENT**

Plaintiffs Ian Brown, James Brown and Barbara Brown do hereby submit their opposition to Defendant Boston Edison Company d/b/a NSTAR Electric's Motion for Summary Judgment.

As grounds therefore, Plaintiffs state that:

1. Defendant Boston Edison Company d/b/a NSTAR Electric ("Boston Edison") owed a duty to Plaintiff Ian Brown to maintain its subject utility pole with reasonable care, and there is a genuine issue of material fact as to whether, under all the circumstances, said defendant was negligent for not relocating the pole when it knew or should have known it had become unreasonably dangerous;

2. M.G.L. c. 260, Sec. 2B, the so-called Statute of Repose, does not bar Plaintiffs' claims against Defendant Boston Edison;

3. There are genuine issues of material fact as to whether Plaintiff Ian Brown is financially dependent on his parents within the meaning of M.G.L. c. 231, § 85X, and therefore his parents Plaintiffs James Brown and Barbara Brown's claim for loss of consortium should go to the jury,

all of which grounds are more fully set forth in Plaintiffs' Memorandum in Support of Their Opposition to Defendant Boston Edison Company d/b/a NSTAR Electric's Motion for Summary Judgment, which memorandum is filed herewith.

Respectfully submitted,

The Plaintiffs,
IAN J. BROWN, JAMES
BROWN, and BARBARA BROWN,
By their attorney,

/s/

Scott E. Charnas, BBO No. 081240
Manheimer & Charnas, LLP
210 Commercial Street
Boston, MA 02109
(617) 557-4700 (telephone)

Date: April 18, 2007

CERTIFICATE OF SERVICE

I, Scott E. Charnas, hereby certify that on the 18th day of April, 2007, I caused a copy of the foregoing to be served, by electronic filing upon Anita Johnson, Esquire, Assistant United States Attorney, Moakley Federal Courthouse, One Courthouse Way, Suite 9200, Boston, Massachusetts 02210, Joshua Lewin, Esquire, Prince, Lobel, Glovsky & Tye, LLP, 100 Cambridge Street, Suite 2200, Boston, MA 02114, and Michael K. Callahan, Esquire, NSTAR Electric, Prudential Tower, 800 Boylston Street, Boston, MA 02199.

/s/

Scott E. Charnas